

REMARKS

The Office Action mailed on 8 April 2003 has been received and reviewed. Claims 1 through 15 are currently pending in the application and stand rejected. New claim 16 has been introduced into the application. Reconsideration of the above-referenced application is respectfully requested.

35 U.S.C. § 102(b) Anticipation Rejection

Claims 1 stands rejected under 35 U.S.C. § 102(b) as being anticipated by Gelman et al. (U.S. Patent No. 4,025,438, hereinafter “Gelman”) or Grosshandler (U.S. Patent No. 4,059,528, hereinafter “Grosshandler”). Applicant respectfully traverses this rejection, as hereinafter set forth.

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Brothers v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The identical invention must be shown in as complete detail as is contained in the claim. *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Applicants respectfully submit that independent claim 1 is not anticipated by Gelman or Grosshandler because each and every element as set forth therein is not found, either expressly or inherently described, in Gelman or Grosshandler. In particular, among other recited elements, neither Gelman nor Grosshandler teaches or discloses the structure of the fractal distributor as set forth in the text of claim 1.

As amended Claim 1 presently requires a distributor which comprises a fractal structure having a plurality of individual conduits which are positioned on planes, which are separate from one another. Applicant respectfully submits that neither Gelman nor Grosshandler either teach or suggest a distributor having the claimed construction.

Gelman discloses a distributor 32 which is formed of a planar plate having a series of channels 20 defined in the face thereof. Notably, all of the channels 20 are defined in a common, i.e. single, plane. Gelman does not teach nor suggest positioning individual channels or conduits

in planes which are separate and distinct from one another. Stated otherwise, Gelman teaches the art to position all of the conduits of a distributor in a common plane. Gelman does not teach a construction having multiple planes, neither does he teach the placement of individual conduits in planes which are different and hence separate from the planes defining other conduits. Likewise, Grosshander, does not appear to teach or suggest a construction wherein a multiplicity of planes are defined and individual conduits are positioned in planes which are separate from one another. In view of the absence of any teaching in either Gelman or Grosshander of a distributor structure having a plurality of individual conduits wherein individual conduits are positioned in separate planes from one another, Applicant respectfully submits that the instant rejection of claim 1 under the provisions of 35 USC 102 must be withdrawn.

35 U.S.C. § 103(a) Obviousness Rejections

(A) Applicable Authority

The basic requirements of a *prima facie* case of obviousness are summarized in MPEP §2143 through §2143.03, *i.e.*, in order “to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine the reference teachings. Second, there must be a reasonable expectation of success in combining the references. Third, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the expectation of success must both be found in the prior art, and not based on Applicants' disclosure.” *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). Further, in establishing a *prima facie* case of obviousness the initial burden is placed on the examiner. “To support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references.” *Ex parte Clapp*, 227 USPQ 972, 973 (Bd. Pat. App. & Inter. 1985). See also MPEP § 706.02(j) and § 2142.

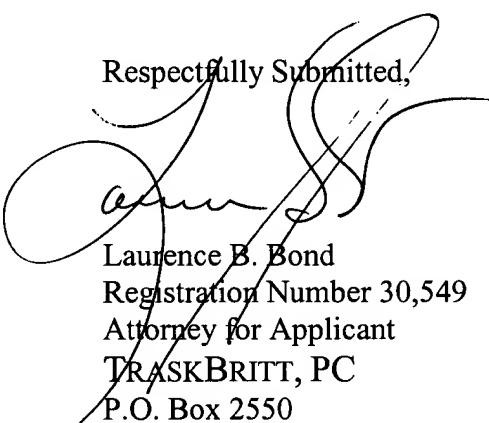
Claims 2-6 depend from Claim 1 and therefore all of the limitations of Claim 1 are subsumed into those claims. As noted above, neither Gelman nor Grosshandler disclose nor suggest a distributor having a plurality of individual conduits wherein individual conduits are positioned in planes which are separate from one another. In the absence of either a teaching or suggestion of such a construction, applicant respectfully submits the neither of these references, either individually or in combination, would likewise teach or suggest such a distributor construction.

Claims 8-15 depend from claim 7. Claim 7 requires a distributor construction which includes a plurality of individual conduits which are positioned in planes which are separate from one another. Further, the individual conduits are positioned so as to not intersect one with another. Here again based on the above remarks, applicant respectfully submits that neither Gelman nor Grosshandler, either individually or in combination, teach or suggest a distributor construction having the claimed construction. The two references not teach the placement of individual conduits in separate planes from one another. In the absence of such a teaching or suggestion, applicant submits that a rejection of claims 7-15 under the provisions of 35 USC 103 is unwarranted. Withdrawal of the instant rejection is therefore respectfully requested.

CONCLUSION

Claims 1 through 15 are believed to be in condition for allowance, and an early notice thereof is respectfully solicited. Examination of Claim 16 is respectfully requested. Should the Examiner determine that additional issues remain which might be resolved by a telephone conference, he is respectfully invited to contact Applicants' undersigned attorney.

Respectfully Submitted,



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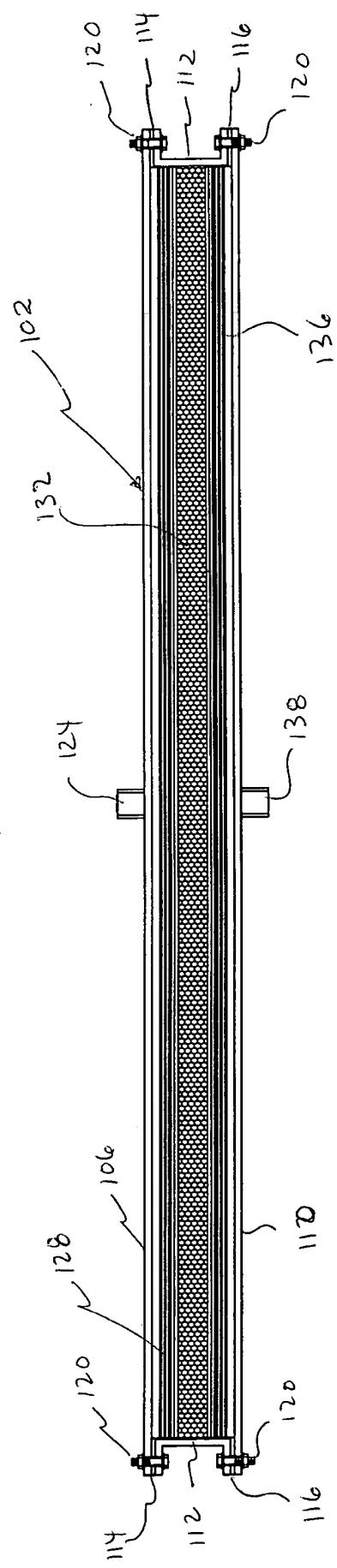


Fig. 1

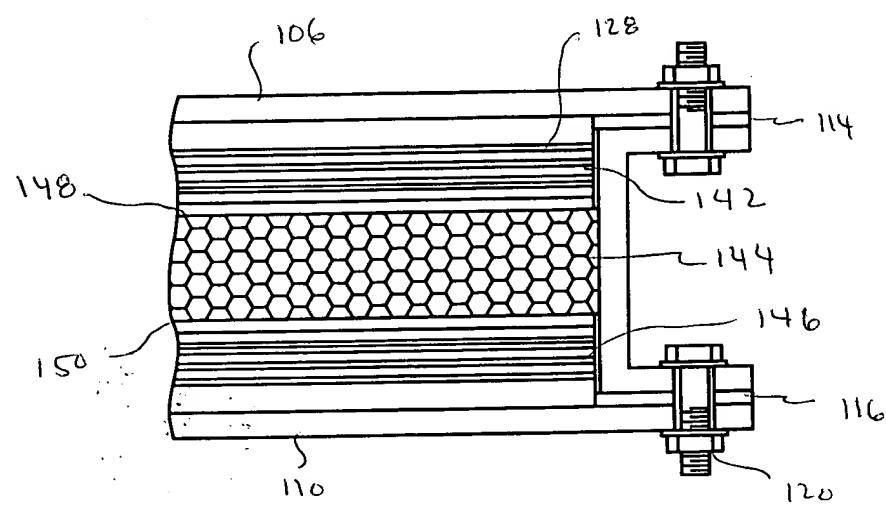


Fig. 2

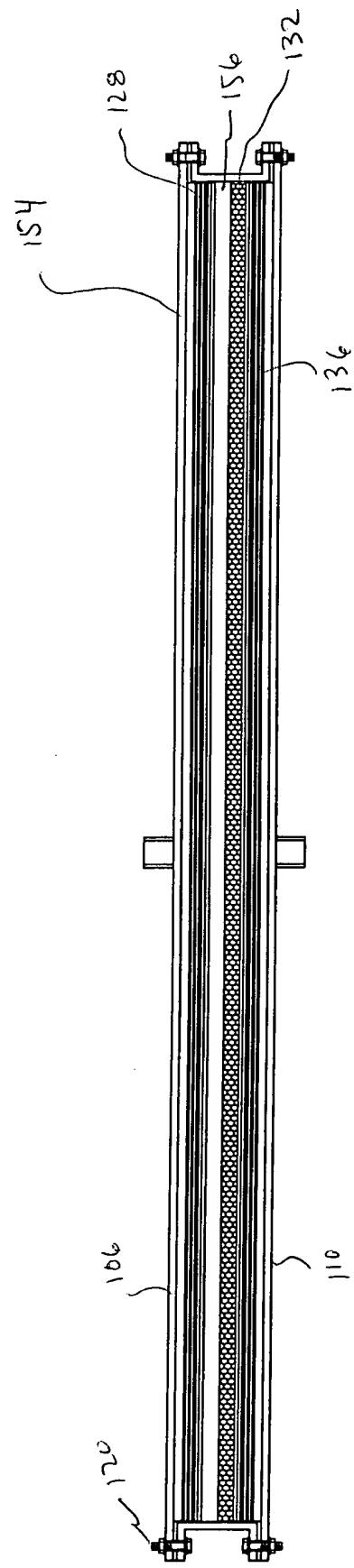


Fig. 3

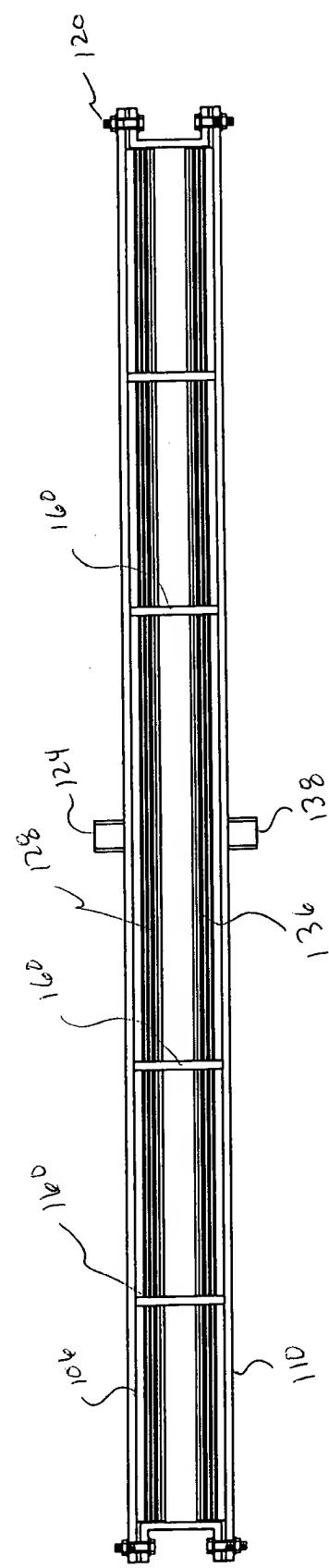


Fig. 4

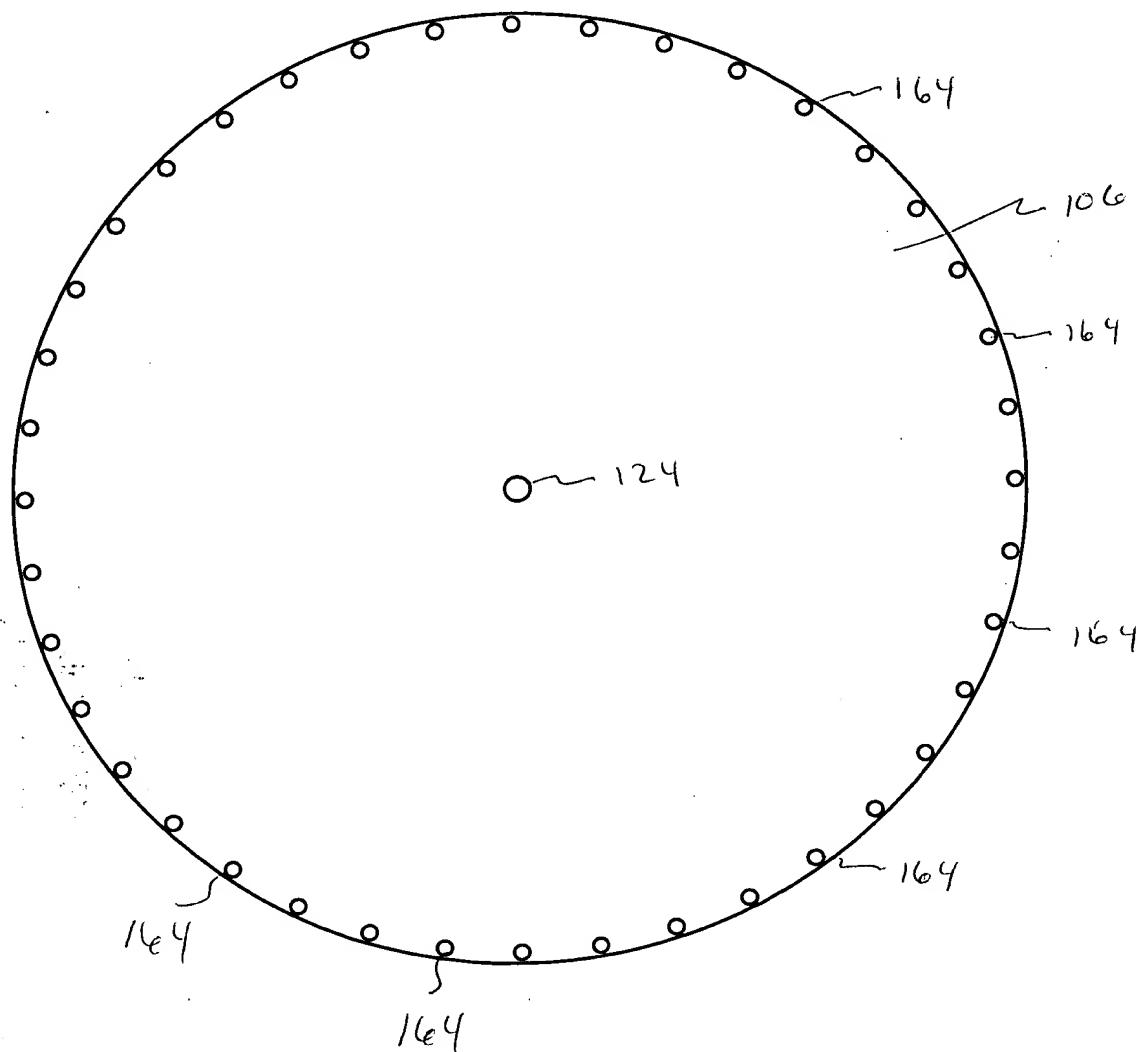


Fig. 5

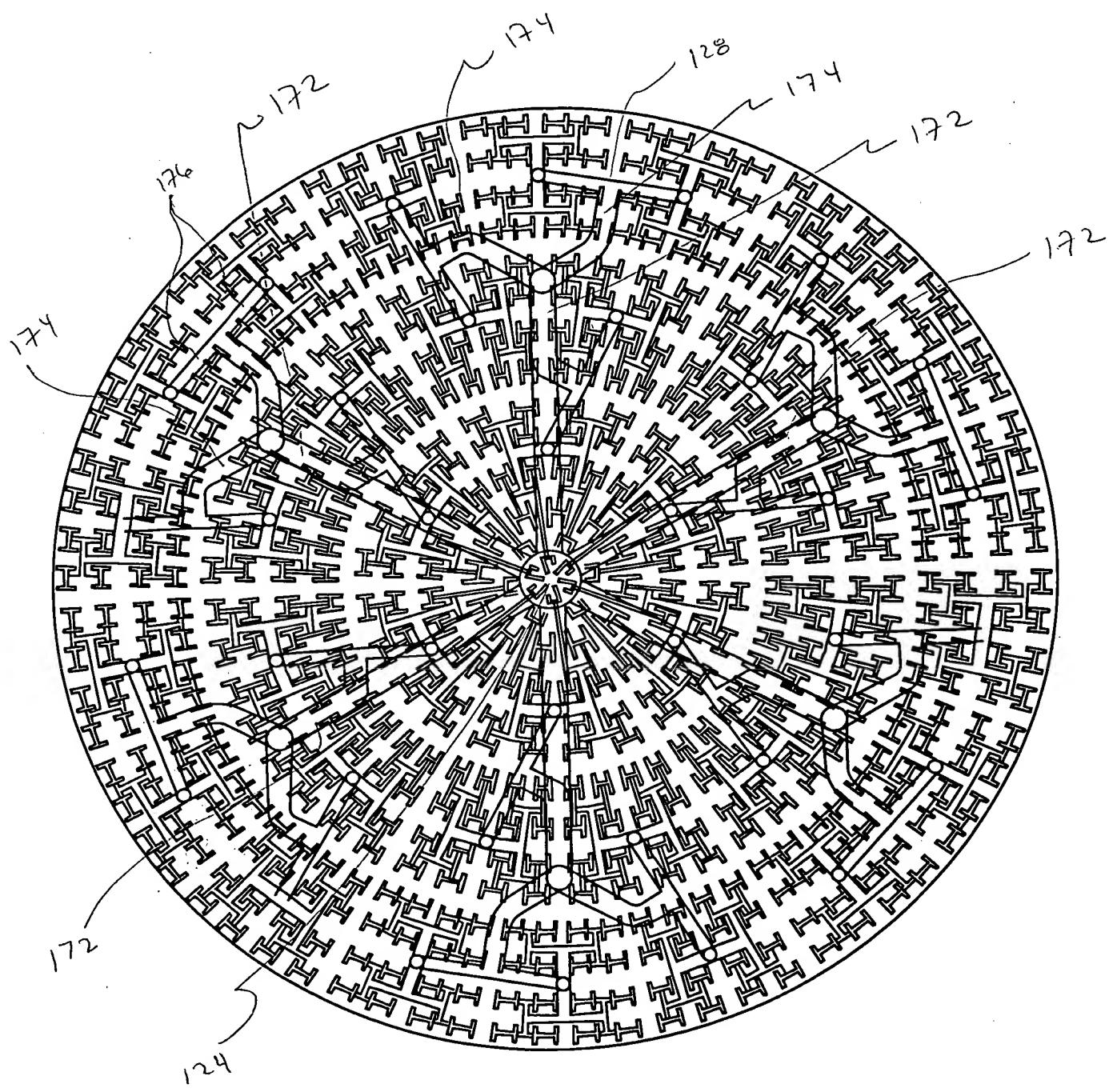
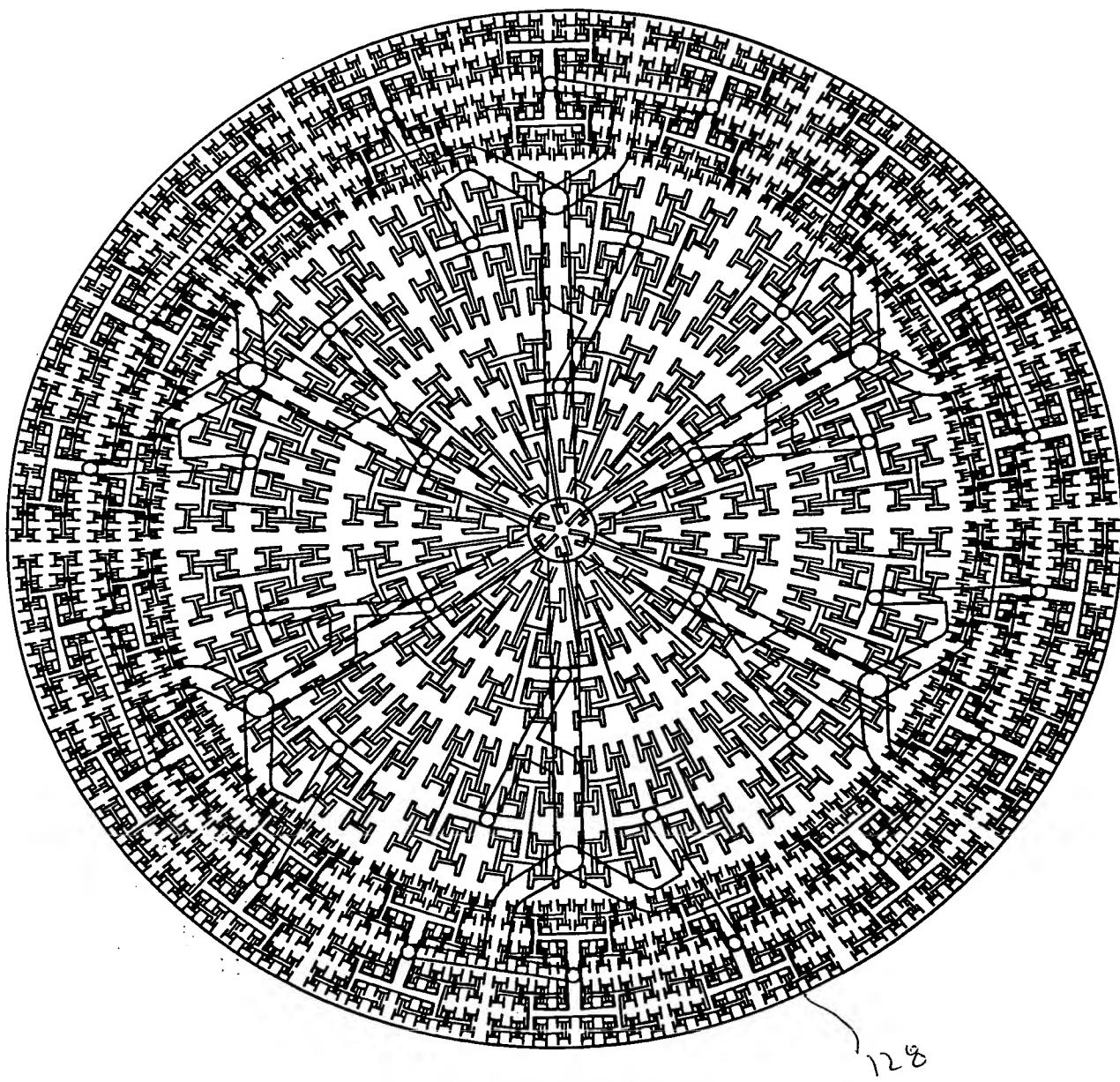


Fig. 6



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Fig. 7